

Remarks/Arguments

Status of Claims

Claims 1-71 and 79-83 are pending.

Claims 72-78 and 84-103 are canceled.

Claims 1-22, 30-56, 60-71 and 79-83 stand rejected.

Claims 23-29 and 57-59 stand withdrawn from consideration.

Claims 1, 11, 30, 36, 79 and 80 have been amended.

Claims 104-109 are new.

Personal Interview

The undersigned thanks Examiner Alam for the courtesy of a personal interview on March 4, 2010, with the undersigned and Edward J. Howard, Reg. No. 42,670. In the personal interview, it was agreed that the restriction requirement would be withdrawn and that all pending claims would be examined. The Section 103 rejection and the Contois reference were discussed. It was further agreed that Applicant would submit a Supplemental Amendment.

Claim Amendments

Claim 1 has been amended to add the limitation "employing an inhibition mechanism to select fewer than all the media elements in the database responsive to the request and to select the temporal organization" in lines 7-9. Support in the patent is found, for example, at col. 4, line 52, to col. 5, line 2, which describes the function of an inhibition mechanism, and col. 3, line 64 to col. 4, line 21, which describes the template layer, which is an exemplary inhibition mechanism.

Claim 11 has been amended to add the limitation "employing an inhibition mechanism to select fewer than all the media elements in the database responsive to the request and for selecting the temporal organization" in lines 8-9. Support is found as described above with respect to claim 1.

Claim 30 has been amended to add the limitation: ", the selecting and designating employing a template" in line 6. Support is found in the patent at col. 3, line 64 to col. 4, line 21.

Claim 36 has been amended to add the limitation: ", the selecting and designating employing a template" in lines 6-7. As with claim 30, support is found in the patent at col. 3, line 64 to col. 4, line 21.

Claim 79 has been amended to add the limitations: "receiving a request for a media program;" in line 4; ", employing an inhibition layer to limit the selected media elements to fewer than all the media elements in the database responsive to the request," in lines 5-7; and "in a temporal order determined by the inhibition layer" in lines 8-9. Support is found, for example, as with claim 1, at col. 4, line 52, to col. 5, line 2, which describes the function of an inhibition mechanism, and col. 3, line 64 to col. 4, line 21, which describes the template layer, which is an exemplary inhibition mechanism.

Claim 80 has been amended to add the limitations: ", employing an inhibition mechanism," in line 6, and "using a temporal order provided by the inhibition mechanism" in line 9. Support is found, for example, as with claim 1, at col. 4, line 52, to col. 5, line 2, which describes the function of an inhibition mechanism, and col. 3, line 64 to col. 4, line 21, which describes the template layer, which is an exemplary inhibition mechanism.

New claim 104 recites that the inhibition mechanism comprises a template. Support is found, for example, in the patent, at col. 3, line 64 to col. 4, line 21, which describes the template layer, which is an exemplary inhibition mechanism.

New claim 105 recites further limitations related to the function of a template. Support is found, for example, at col. 8, lines 2-43.

New claim 106 recites that clips are selected using demographic characteristics of an intended viewer. Support is found, for example, at col. 8, lines 16-19.

Support for new claim 107 is found, for example, at col. 4, line 65 to col. 5, line 2.

New claims 108-109 depend from claim 11, and are parallel to new claims 104-105.

Rejection of Claims 1-22, 30-35, 36-41, 47, 50-51, 66, 67, 79 and 80-83 under 35 U.S.C. 103(a)

Claims 1-22, 30-35, 36-41, 47, 50-51, 66, 67, 79 and 80-83 stand rejected under 35 U.S.C. 103 as being unpatentable over U.S. Patent No. 5,864,868 (Contois) in view of European Patent Publication No. 0564247 (Ubillos).

As to amended claim 1, the rejection is respectfully traversed for at least the reason that Contois fails to teach at least the limitations:

automatically selecting a plurality of said media elements in response to a request for media programming, and automatically selecting a temporal organization for said selected media elements, employing an inhibition mechanism to select fewer than all the media elements in the database responsive to the request and to select the temporal organization, said temporal organization not being dictated by said selected information;

Contois teaches a system that provides for database searches that return all of the songs responsive to the search. For example, the user may cause the interface to display only music related to a selected category, a selected composer, a selected artist, or a selected music piece (col. 4, lines 44-67). There is no inhibition mechanism taught or suggested.

Advantageously, the inhibition mechanism of claim 1 provides an automated device that can, without selection of media elements by an experienced editor, provide programming that reflects the judgment of an editor in creation of the inhibition mechanism. For example, in the example of a template for programming for instructional pieces, the template, an example of an inhibition mechanism, may include a sequence of subjects for material selected by an instructional designer (e.g., col. 4, lines 15-21). A suitably designed inhibition mechanism provides programming.

Contois also permits the user to select *manually* each piece of music. For example, at col. 11, lines 33-36:

Another feature of the preferred embodiment regards the creation of a specialized list of music pieces to be played on the player piano. In

operation, once a piece of music is selected, a user may activate the button labeled "Add to Song List," which is located at the bottom center of each screen. By using this button, a user can create their own personal record album or compact disk that contains only those songs that have been individually selected. Thereby, the player piano can be directed to play each song one after the other in sequence or in a random order.

In the creation of song lists in Contois, each song must be individually and manually selected by the user.

Contois even defines "selecting" as meaning manual selection. Contois states, at col. 9, lines 30-35:

It is pointed out that term of "selecting" means that a pointer or cursor, which is illustrated as a white arrow in FIG. 3 that is located on a song title, is placed over the desired item while the user usually clicks a mouse button once or twice. The pointer is also known as a selection means.

Thus, "selecting" in Contois means manually placing a pointer or cursor on a song title while the user clicks a mouse button.

Ubillos similarly lacks any disclosure of at least the limitation:

automatically selecting a plurality of said media elements in response to a request for media programming, and automatically selecting a temporal organization for said selected media elements, employing an inhibition mechanism to select fewer than all the media elements in the database responsive to the request and to select the temporal organization, said temporal organization not being dictated by said selected information;

Ubillos discloses manual selection of stored video clips in a temporal organization dictated by the user, as explained, for example, at col.3, lines 31-36:

The user instructs the computer to assemble a video program from the stored video clips (and optionally also stored audio clips and clips representing still image images or text) by arranging displayed clips and displayed special effect icons in a desired sequence along the time ruler.

Ubillos thus clearly requires manual selection of clips and manual arrangement of clips in a sequence. There is no inhibition mechanism in Ubillos.

For at least the foregoing reasons, reconsideration and withdrawal of the rejection of claim 1 is respectfully requested.

Claims 2-10 depend ultimately from allowable base claim 1, and are allowable at least by virtue of their dependence from an allowable base claim.

As further grounds for reconsideration and withdrawal of the rejection of claim 5, neither Contois nor Ubillos discloses tags associated with media elements, at least one of the tags being a content tag and at least one of the tags being a control tag containing other information. The Office Action cites to col. 8, line 57 to col. 9, line 9 of Ubillos, which merely relates to the user dragging thumbnails of selected clips to a construction window. This step of Ubillos relates to the manual arrangement by the user of clips into a video program, and not to tags associated with media elements.

As further grounds for reconsideration and withdrawal of the rejection of claim 6, neither Contois nor Ubillos discloses control tags containing transition information. In Ubillos, transitions may be applied to video clips by the user in the process of constructing a video. (see, e.g., col. 10, lines 49-53). This is a manual process in Ubillos. For example, Ubillos states, at col. 15, lines 8-10: "Microprocessor 31 is preferably programmed to enable a user to select a special effect transition icon..." Similarly, Ubillos states, at col. 16, line 58, to col. 17, line 3, "The user determines the type of the transition by dragging a selected icon from a special effects menu (which can be the menu described above with reference to Fig. 12) to area 80." Thus, Ubillos makes clear that the user selects the transitions. There are no tags associated with media elements having transition information in Ubillos.

As further grounds for reconsideration and withdrawal of the rejection of claim 7, neither Contois nor Ubillos discloses control tags containing a luminance range for a portion of an audiovisual clip. The Office Action cites Ubillos at col. 7, lines 19-31,

which indicates text for a video clip including size and clip duration, but does not mention luminance.

As further grounds for reconsideration and withdrawal of the rejection of claim 8, neither Contois nor Ubillos discloses deselecting elements based on information in control tags as part of an automatic selection process. The Office Action cites to Contois, col. 11, lines 54-67 and col. 12, lines 1-36. Contois discloses manual selection and deselection of music pieces from playlists, such as by using a "Delete Song" button (col. 11, lines 56-58). Use of control tags, as recited in claim 8, relates to automatic selection and deselection of media elements. Ubillos similarly, as discussed above, discloses manual selection of video clips.

As further grounds for reconsideration and withdrawal of the rejection of claim 9, neither Contois nor Ubillos disclose selecting transitions based on transition information associated with each of the elements and transition rules. Contrary to the Office Action, Contois does not disclose transitions at all. Contois merely discloses playlists, and nowhere discloses transitions between adjacent music pieces. Ubillos discloses manual selection of transitions, as described, for example, at col. 10, lines 49-53. There is no reference to transition information associated with each of the elements and transition rules in Ubillos.

As further grounds for reconsideration and withdrawal of the rejection of claim 10, neither Contois nor Ubillos discloses using demographic information in automatic selection of media elements. Neither of those references discloses demographic information or automatic selection of media elements.

Claim 11 is an independent claim which has been amended similarly to claim 1. For substantially the reasons discussed above with reference to claim 1, Contois and Ubillos, either alone or in combination, fail to teach the limitations of amended claim 11.

For at least the foregoing reasons, reconsideration and withdrawal of the rejection of claim 11 is respectfully requested.

Claims 12-22 depend ultimately from allowable base claim 11, and are allowable at least by virtue of their dependence from an allowable base claim.

Claim 15 is similar to claim 5, and is allowable at least both by virtue of its dependence from allowable base claim 11 and the reasons set forth above for withdrawal of the rejection of claim 5.

As further grounds for reconsideration and withdrawal of the rejection of claim 16, neither Contois nor Ubillos teaches control tags containing information indicating permitted transition points in an audiovisual clip. Contois does not teach transitions. Ubillos does not teach permitted transition points.

Claim 17 is similar to claim 7, and is allowable at least both by virtue of its dependence from allowable base claim 11 and the reasons set forth above for withdrawal of the rejection of claim 7.

Claim 18 is similar to claim 8, and is allowable at least both by virtue of its dependence from allowable base claim 11 and the reasons set forth above for withdrawal of the rejection of claim 8.

Claim 19 is similar to claim 9, and is allowable at least both by virtue of its dependence from allowable base claim 11 and the reasons set forth above for withdrawal of the rejection of claim 9.

Claim 20 is similar to claim 10, and is allowable at least both by virtue of its dependence from allowable base claim 11 and the reasons set forth above for withdrawal of the rejection of claim 10.

As further grounds for reconsideration and withdrawal of the rejection of claim 22, neither Contois nor Ubillos discloses selection means that prevents a user from selecting or ordering said media elements. To the contrary, the user of Contois selects music pieces to create playlists; the user of Ubillos selects video clips to create an edited video program.

The rejection of independent claim 30 is respectfully traversed.

Neither Contois nor Ubillos teaches at least the limitation:

automatically selecting from a database containing information concerning said media elements a plurality of said media elements and automatically designating a temporal sequence for said selected media elements, the selecting and designating employing a template;

Neither Contois nor Ubillos teaches a template for selecting media elements and designating a temporal sequence of the media elements. A template may, as noted above in connection with claim 1, reflect the judgment of an editor, such as an instructional designer, and thereby serve to provide selecting and ordering of media elements to create media programming without the time and expertise of an editor. The media programming may be of quality reflecting the judgment of the experienced editor. For at least this reason, reconsideration and withdrawal of the rejection of claim 30 is respectfully requested.

As further independent and sufficient grounds for withdrawal of the rejection of claim 30, neither Contois nor Ubillos discloses the limitation:

automatically selecting transitions for each of said media elements to create a file of element identifiers and transition information for creation of media programming

Contois does not teach transitions at all. Ubillos teaches manually selected transitions, as discussed above in connection with claim 6.

For at least the foregoing reasons, reconsideration and withdrawal of the rejection of claim 30 is respectfully requested.

Claim 31 depends from allowable base claim 30, and is allowable at least by virtue of its dependence from this allowable base claim.

Claim 32 depends from allowable base claim 30, and is allowable at least by virtue of its dependence from this allowable base claim. In addition, reconsideration and withdrawal of the rejection of claim 32 is respectfully requested on the grounds that neither Contois nor Ubillos teaches "wherein said transitions are selected based on information relating to permitted transitions associated with each of said elements." Contois, as noted above, does not teach transitions at all. Ubillos does not teach information relating to permitted transitions associated with elements.

Claim 33 depends from allowable base claim 30, and is allowable at least by virtue of its dependence from this allowable base claim.

Claim 34 depends from allowable base claim 30, and is allowable at least by virtue of its dependence from this allowable base claim. In addition, reconsideration and withdrawal of the rejection of claim 34 is respectfully requested on the grounds that neither Contois nor Ubillos teaches "said information comprises a range of permitted transition points at the beginning and end of a plurality of said elements." Contois, as noted above, does not teach transitions at all. Ubillos does not teach information relating to permitted transition points of elements.

Claim 35 depends from claim 34, and is allowable at least by virtue of its dependence from allowable base claims 30 and 34. In addition, reconsideration and withdrawal of the rejection of claim 35 is respectfully requested on the grounds that neither Contois nor Ubillos teaches "said information comprises an earliest permitted transition point, a default transition point, and a latest permitted transition point." Contois, as noted above, does not teach transitions at all. Ubillos does not teach information relating to earliest, default and latest permitted transition points of elements.

Amended claim 36 is an independent claim. For substantially the reasons discussed above with reference to claim 30, Contois and Ubillos, either alone or in combination, fail to teach at least the limitation:

means including a processor for automatically selecting from a database containing information concerning said media elements a plurality of said media elements and automatically designating a temporal sequence for said selected media elements, the selecting and designating employing a template,

or the limitation:

means including a processor for automatically selecting transitions for each of said media elements.

Accordingly, reconsideration and withdrawal of the rejection of claim 36 is respectfully requested.

Claim 37 depends from allowable base claim 36, and is allowable at least by virtue of its dependence from this allowable base claim.

Claim 38 is similar to claim 32, and is allowable at least both by virtue of its dependence from allowable base claim 36 and the reasons set forth above for withdrawal of the rejection of claim 32.

Claim 39 depends from allowable base claim 36, and is allowable at least by virtue of its dependence from this allowable base claim.

Claim 40 is similar to claim 34, and is allowable at least both by virtue of its dependence from allowable base claim 36 and the reasons set forth above for withdrawal of the rejection of claim 34.

Claim 41 depends from claim 40, and is similar to claim 35. Claim 41 is allowable at least by virtue of its dependence from allowable base claims 36 and 40, and the reasons set forth above for withdrawal of the rejection of claim 35.

Claim 47 depends from claim 1, and is allowable at least by virtue of its dependence from an allowable base claim. In addition, reconsideration and withdrawal of the rejection of claim 47 is respectfully requested on the grounds that neither Contois nor Ubillos teaches "obtaining desired content information concerning an intended viewer of the programming," or "employing said desired content information in said step of selecting." Contois does not teach anything relating to an intended viewer. Accordingly, Contois cannot teach automatic selection employing said desired content information. Although the Office Action cites col. 4, lines 39-67 as teaching these limitations, careful review of this passage of Contois does not reveal these limitations. Ubillos fails to teach these limitations; by way of example, Ubillos, as noted above, does not teach automatic selection at all.

Claims 50 and 51 are allowable at least by virtue of their dependence from allowable base claim 11. In addition, reconsideration and withdrawal of the rejections of claim 50 and 51 is respectfully requested on the grounds that neither Contois nor Ubillos teaches deriving said selected information from said media assets, as to claim 50, or automatically deriving said selected information from said media assets (as to claim 51). In Contois, the database appears to be pre-populated, see, e.g., col. 9, lines 53-61, which lists the four categories of data that may be accessed from the player piano data base. In Ubillos, no process of deriving selected information from the media assets for use in selecting assets is disclosed.

Claim 66 is allowable at least by virtue of its dependence from allowable base claim 1.

Claim 67 is allowable at least by virtue of its dependence from allowable base claim 1. In addition, reconsideration and withdrawal of the rejection of claim 67 is respectfully requested on the grounds that neither Contois nor Ubillos teaches "obtaining psychographic information concerning an intended viewer of the programming prior to said step of selecting, and employing said psychographic information in said step of selecting." Contois, as noted above with reference to claim 1, teaches manual selecting, and accordingly does not teach using psychographic information in the step of selecting. Ubillos similarly teaches user selection of video clips, as explained above with reference to claim 1. Although the Office Action cites col. 4, lines 39-67 as teaching these limitations, careful review of this passage of Contois does not reveal these limitations.

Claim 79 has been amended to include limitations similar to those of claim 1. The rejection of claim 79 is respectfully traversed on the same grounds as claim 1.

For at least the foregoing reasons, reconsideration and withdrawal of the rejection of claim 79 is respectfully requested.

Claim 80 has also been amended to recite an inhibition mechanism providing selection and ordering. As discussed above in connection with claim 1, neither Contois nor Ubillos teaches an inhibition mechanism performing these functions.

For at least the foregoing reasons, reconsideration and withdrawal of the rejection of claim 80 is respectfully requested.

Claim 81 is allowable at least by virtue of its dependence from allowable base claim 80. As further grounds for reconsideration and withdrawal of the rejection of claim 81, neither Contois nor Ubillos teaches at least "collecting an information item related to said user; and selecting said attribute parameter using said information item." In Contois, the user selects music pieces; no information item related to a user is collected or used. In Ubillos, the user selects and orders video clips; no information item related to a user is collected or used.

Rejection of Claims 42-46, 48, 49, 52-56, 60-65 and 68-71 under 35 U.S.C. 103(a)

Claims 42-46, 48, 49, 52-56, 60-65 and 68-71 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Contois in view of Ubillos and further in view of U.S. Patent No. 5,966,121 issued to John Hubbell et al ("Hubbell").

Claims 42-46 depend from allowable base claims 1 and 6, and are allowable at least by virtue of their dependence from allowable base claims.

Claim 48 depends from allowable base claims 1 and 6, and is allowable at least by virtue of its dependence from allowable base claims. As further grounds for reconsideration and withdrawal of the rejection of claim 48, Hubbell, contrary to the Office Action, fails to disclose a modification parameter used to modify a transition. The cited portion of Hubbell, col. 9, lines 17-25, merely describes transitions in general and their application to hypervideo controls.

Claim 49 depends from allowable base claim 1, and is allowable at least by virtue of its dependence from an allowable base claim. As further grounds for reconsideration and withdrawal of the rejection of claim 49, Hubbell, contrary to the Office Action, fails to disclose obtaining desired style information concerning a viewer and employing the style information in the step of automatic selecting. Hubbell does not disclose automatic selection of media elements at all. The portion of Hubbell cited in the Office Action, col. 4, line 66 to col. 5, line 8, merely constitutes a definition of hypervideo editor, and does not teach employing style information concerning a viewer in automatic selecting of media elements.

Claims 52-56 depend from allowable base claims 11 and 16, and are allowable at least by virtue of their dependence from allowable base claims.

Claims 60-62 depend from allowable base claim 30, and are allowable at least by virtue of their dependence from allowable base claims.

Claims 63-65 depend from allowable base claim 36, and are allowable at least by virtue of their dependence from allowable base claims.

Claim 68 depends from allowable base claim 1, and is allowable at least by virtue of its dependence from an allowable base claim. As further grounds for reconsideration and withdrawal of the rejection of claim 68, Hubbell, contrary to the Office Action, fails to disclose filtering a first media element out of consideration for inclusion in media programming where the filtering is performed by a moderation layer. The portion of Hubbell cited in the Office Action, col. 5, lines 17-25, is a definition of a "ruler," which is a region of a display interface which indicates the state of a hypervideo document.

Claims 69-70 depend from allowable base claims 1 and 5, and are allowable at least by virtue of its dependence from allowable base claims.

Claim 71 depends from allowable base claims 1 and 5, and is allowable at least by virtue of its dependence from allowable base claims. As further grounds for reconsideration and withdrawal of the rejection of claim 71, Hubbell, contrary to the Office Action, fails to disclose a reusability tag. A reusability tag has information relating to the number of times, if any, a media element may be reused in media programming. Hubbell fails to mention such a tag.

Restriction of Claims 23-29 and 57-59

As agreed in the personal interview of March 4, 2010, the restriction requirement will be withdrawn, and original patent claims 23-29, as well as claims 57-59, which depend from those original patent claims, will be searched and examined.

New Claims 104-109

New claim 104 recites that an inhibition mechanism comprises a template, which is nowhere mentioned in Contois or Ubbilos.

New claim 105 recites positions of a template, with selection of media elements for positions of the template. The prior art of record does not disclose or suggest these limitations. As noted above, the design of a template may reflect the work of an editor, such as an instructional designer, and permit the creation of media programming of high quality without the need for the time and expertise of an editor.

New claim 106 recites the use of demographic information of an intended viewer in selecting media elements for positions of a template. Nothing in the prior art teaches this limitation.

New claim 107 recites the limitation that the inhibition mechanism is configured to select media elements having an aggregate duration limited to a predetermined duration of the media programming. This limitation is not disclosed in the prior art of record.

New claims 108-109 depend from claim 11, and are parallel to new claims 104-105.

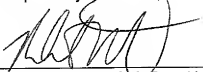
Summary

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

CONCLUSION

Having fully addressed the Examiner's objections and rejections it is believed that, in view of the preceding amendments and these remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited.

Respectfully submitted,



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